

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

ORIGINAL

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amendment of § 73.606)
Table of Amendments,)
Television Broadcast Stations)
(Pueblo, Colorado))

ORIGINAL
FILE

**PETITION FOR ISSUANCE OF NOTICE OF
PROPOSED RULEMAKING TO EXCHANGE CHANNELS**

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September 8, 1992

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To: The Commission

**PETITION FOR ISSUANCE OF NOTICE OF
PROPOSED RULEMAKING TO EXCHANGE CHANNELS**

The University of Southern Colorado, permittee of noncommercial Television Station KTSC-TV, Channel 8, Pueblo, Colorado (hereinafter the "University") and Sangre de Cristo Communications, Inc., licensee of Television Station KOAA-TV, Channel 5, Pueblo, Colorado (hereinafter "SCC") (collectively the "Petitioners"), petition the Commission to: (1) issue a Notice of Proposed Rulemaking providing for an amendment to the Television Table of Allotments so that Channel 8, Pueblo, Colorado is designated as a commercial channel and commercial Channel 5, Pueblo, Colorado is designated as a noncommercial channel pursuant to Section 1.420(h) of the Commission's Rules; and (2) modify the license of KTSC-TV to specify operation on Channel 5*; and (3) modify the license of KOAA-TV to specify operation on Channel 8 in accord with an existing

construction permit held by the University. (FCC File No. BPET900122KE).

PRELIMINARY STATEMENT

1. The University is committed to providing culturally diverse programming of superior quality through its noncommercial, educational television service. As a result, the University has distinguished itself by providing more weekly local programming (other than local news) than any other broadcast station in the market. In addition, the University has established a network of television translator stations to expand its public television service to communities which are either unserved or located in geographically-isolated areas. By its ownership and operation of eleven television translator stations, the University is the leading provider of public broadcasting service to remote and unserved areas in its Southern Colorado. Despite the University's numerous translators stations, there still remain some areas which only receive public broadcasting service via satellite. As will be seen below, the proposed exchange of Channel 8 and Channel 5 would permit the University to enhance the quality of KTSC-TV's signal, to expand its current translator network and to offer additional public broadcast service programs. See affidavit of Gregory Sinn, attached hereto as Exhibit 1 (the "Sinn Affidavit"), p. 2.

2. SCC has consistently endeavored to expand and improve its services to better serve Pueblo, its community of license, and the surrounding areas including the city of Colorado Springs and El Paso

county. However, due to the Commission's mileage separation rules, SCC has been unable to move KOAA-TV to the antenna site used by the other commercial stations in the joint market, Colorado Springs - Pueblo.

Through the exchange of channels proposed herein, SCC will be able to realize its goal of increased service to the entire market. At the same time, the channel exchange will substantially advance the interests of the University in upgrading the facilities of its full-service noncommercial television station and enhance its programming.

3. In accordance with the provisions of Section 1.420(h) of the Commission's Rules, the parties propose the following change in the TV Table of Allotments (47 C.F.R. § 73.606 (b)):

| | <u>Present</u> | <u>Proposed</u> |
|------------------|-----------------|-----------------|
| Pueblo, Colorado | 5, *8, 26+, 32- | *5, 8, 26+, 32- |

The proposed channel exchange does not involve any other changes in the allotment table. It is a straight-forward swap whereby the University will operate noncommercially on Channel 5 and SCC will operate commercially on Channel 8. As set forth in more detail below, SCC has agreed to provide substantial benefits to the University in exchange for its participation in the channel exchange. These benefits support the conclusion that the public interest will be served by grant of this petition.

**THE PROPOSED CHANNEL EXCHANGE IS IN
THE PUBLIC INTEREST**

4. The proposal will permit the University to improve the quality of its noncommercial, educational television service in furtherance of its public broadcasting mission. This will be accomplished through the substantial monetary and other benefits the University has received and will receive from SCC upon approval of the channel exchange.

5. As an important result of the channel exchange, SCC has agreed to provide financial assistance to the University in the amount of \$1,000,000. The University plans to use approximately \$150,000 of that amount to expand the University's network of translators to the Western Slope of Colorado. See Sinn Affidavit, p. 2. At present, residents of the Western Slope receive public television service only via satellite delivery. Based on its public broadcast service efforts, the County Commissioners of Ouray, Delta and Montrose counties have selected KTSC-TV to be the noncommercial, educational television station to serve the Western Slope. The University intends to provide service to those countries and others on the Western Slope through use of translator and microwave stations. A portion of SCC's monetary contribution will be used to finance the construction of these translator and microwave stations. Petitioners are prepared to submit letters and other statements from various federal, state and local officials commenting on the University's plans to expand its service. Through this planned expansion of the University's translator network, KTSC-TV will obtain approximately 83,000 new viewers who have

never had public broadcasting service in the past. See Engineering Statement of Cohen and Dippell, Exhibit 2.

6. The remainder of SCC's monetary contribution will be placed in an endowment fund. The income earned from such fund will be used exclusively to broaden and expand the programming offered by the University on KTSC-TV. Sinn Affidavit at p. 3. The University currently offers the entire Public Broadcasting Service roster of programming. The University is committed to providing a public forum in which local issues can be addressed. Consequently, KTSC-TV's programming has been aimed at discussing and examining those topics which are important to the residents of southern and western Colorado. The University intends to use some of the funds obtained in connection with the proposed channel exchange to expand KTSC-TV's schedule by including several programs which have been requested by viewers and some programs focusing on the smaller communities which usually get limited, if any, television exposure.

7. Petitioners submit that the benefits to educational broadcasting offered by this proposal clearly support a finding that the public interest will be served. The channel swap proposed herein will permit the University to provide new service to 299,897 persons within either the proposed Grade B service contours of KTSC-TV or within the service area of new translators.

8. Grant of the petition will permit the University to increase the range of its service. Upon approval of the channel exchange, the

University and SCC have agreed to exchange certain transmission equipment which is currently used in the operation of KTSC-TV and KOAA-TV. As part of this equipment exchange, the University will receive a dual thirty kilowatt cross polarized transmitter (with a total capacity of sixty kilowatts) to replace its present single 30 kilowatt transmitter. This dual transmitter will permit a stronger and better quality signal over Pueblo and the entire Colorado Springs - Pueblo market. Furthermore, the dual transmitter is more reliable than KTSC-TV's present transmitter. See Sinn Affidavit, p. 1.

9. In addition, SCC has agreed to subject to FCC approval, assign the license for its television translator station which is currently operating on Channel 30 from Cheyenne Mountain . This translator will allow the University to cover a wider area of El Paso county than it currently services.

10. The foregoing proposal is in the public interest because it will advance the goals established by the Commission in Amendments to the Television Table of Assignments to Change Noncommercial Educational Reservations, 59 Rad. Reg. 2d (P&F) 1455 (1986), recon. denied, 3 FCC Rcd 2517 (1988).

[T]he goal of speeding development of educational television service favored by the Commission in that earlier rule making proceeding is, likewise, favored here where, as noted, the Commission believes that implementation of the proposed rule could speed the introduction of noncommercial educational television service or expedite enhanced service to certain communities.

Id. at 1462. Consistent with the Commission's conclusions in authorizing channel exchanges, the benefits to the University and the public are directly tied to the noncommercial programming to be provided by the University. Both the technical facilities and programming broadcast by the University will be enhanced by this proposal.

11. The exchange agreed to herein between SCC and the University compares favorably to the exchange approved between Channels 18 and 68 in Clermont and Cocoa, Florida. Amendment of Section 73.606(b), Table of Allotments, Television Broadcast Stations, 4 FCC Rcd 8320 (1989), recon. denied, 5 FCC Rcd 6566 (1990), aff'd, 69 Rad. Reg. 2d (P&F) 1572. In that case the direct benefit to the noncommercial petitioner was a total monetary contribution of \$1,240,000.00 and title to certain equipment currently used in the operation of the noncommercial station which was being used by the noncommercial petitioner without charge. The Commission's decision in Clermont and Cocoa also relied upon the improved service that would be provided by the commercial facility by grant of the requested channel exchange.

CONCLUSION

In adopting Section 1420(h) of its Rules and Regulations in 1986, the Commission stated: "Intraband exchanges are desirable because such exchanges may benefit both stations involved with consequent advantages

to the public."^{1/} Petitioners submit that they have presented substantial evidence of how their proposal benefits the public. Therefore, they respectfully petition the Commission to issue a Notice of Proposed Rulemaking proposing the exchange of Petitioners' channels.

Respectfully submitted,

UNIVERSITY OF SOUTHERN
COLORADO

By: 

Wayne Coy, Jr.

Its Attorney

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COMMUNICATIONS, INC.

By: 

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Its Attorney

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(202) 857-2500

September 8, 1992

^{1/} Amendments to the Television Table of Assignments to Change Noncommercial Educational Reservations, supra, at 1461.

EXHIBIT 1

Affidvair of Gregory Sinn

AFFIDAVIT OF GREGORY SINN

I, Gregory B. Sinn am general manager of Television Station KTSC-TV, I have served in that capacity for seven years.

The proposed rulemaking concerning an asset exchange between KOAA-TV (Channel 5) and KTSC-TV (Channel 8) will be of substantial short and long term benefit to KTSC-TV and the people of southern and western Colorado.

One significant and immediate benefit of the channel exchange is the exchange of KTSC-TV's current single 30 kw transmitter for a dual 30 kw (60 kw total) circular polarized transmitter currently used by KOAA-TV. This provides for an enhanced and stronger signal to our city of license. It also gives twice the reliability that two transmitters enable versus the single transmitter KTSC-TV now operates.

KTSC-TV is the leader in Colorado for providing a PBS service to unserved communities. KTSC-TV owns and operates more translators to reach isolated viewing areas than any other broadcast station in the state, with a total of 11. KTSC-TV has a long range plan to provide translators to unserved communities in an effort to expand public television service to remote or unserved communities. The following list shows the communities KTSC-TV has placed translators in and the year they were activated:

| <u>Site</u> | <u>Year</u> |
|------------------|-------------|
| Colorado Springs | 1977 |
| Manitou Springs | 1977 |
| Aguilar | 1980 |
| Alamosa | 1980 |
| Del Norte | 1980 |
| La Veta | 1980 |
| Salida | 1980 |
| San Luis | 1980 |
| Trinidad | 1980 |
| Coaldale | 1986 |
| Cotopaxi | 1986 |
| Montrose | 1992 |

Unfortunately, there are still areas of Colorado that do not receive PBS except via satellite delivery. These regions are on the Western Slope of the state and encompass approximately 208,000 people including the population centers of Grand Junction and Durango. The inclusion of these communities would provide a significant increase in new KTSC-TV viewers:

| <u>Colorado Counties on Western Slope</u> | <u>1990 Census - Persons</u> | <u>Population Served with New Translators</u> |
|---|----------------------------------|---|
| Mesa | 93,145 | 65,995 |
| Delta | 20,980 | |
| Montrose | 24,423 | |
| Ouray | 2,295 | |
| San Miguel | 3,653 | |
| Dolores | 1,504 | |
| San Juan | 745 | |
| La Plata | 32,284 | 16,876 |
| Montezuma | 18,672 | |
| Gunnison | 10,273 | |
| Total | 207,974 | 82,871 |

KOAA-TV will provide KTSC-TV with \$1 million dollars. Their funds will enable KTSC-TV to fulfill its role in expanding its service to these communities. Using only 15% of the \$1 million endowment, we will further our primary mission of providing a high quality culturally diverse and free public television service to all the citizenry of our country. We plan to use \$150,000 for the following expansion of our translator system:

| Service Expansion Costs | | |
|--------------------------------|------------------------------|------------------|
| Microwave | - Montrose to Grand Junction | \$25,000 |
| Translator | - Grand Junction | \$25,000 |
| Microwave | - Montrose to Ouray | \$25,000 |
| Microwave | - Ouray to Molas Divide | \$25,000 |
| Microwave | - Molas Divide to La Plata | \$25,000 |
| Translator | - Durango | \$25,000 |
| Total | | \$150,000 |

The remainder of the monies (\$850,000) will be placed in an endowment to broaden and expand the programming offerings of **KTSC-TV**. For the past four years **KTSC-TV** has attained the financial ability to provide the entire PBS roster of programming, but not programming commonly purchased beyond the PBS offerings. With the entry to communities like Grand Junction and Durango and the additional interest monies from the endowment provided by the **KOAA-TV** contribution, many of the additional programs that are requested by viewers may finally be included in the **KTSC-TV** schedule. We are projecting up to \$50,000 in income each year be directed towards programming efforts. **KTSC-TV** is also the leader in local programs, offering more local programming per week (outside of local news) than any other station in the market. The following series exemplify this effort:

STANDOFF -- the region's only live prime timed public affairs series incorporating a studio audience and live viewer call-ins;

MATCHWITS -- the regional high school knowledge bowl;

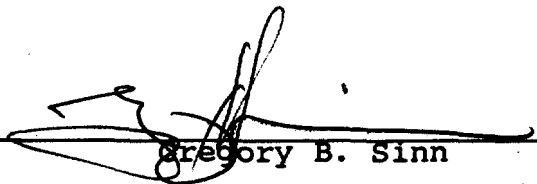
COLORADO HEALTH VIEW -- live with viewer call-ins regarding health matters;

CAPITAL JOURNAL -- covering the Colorado legislature from a regional perspective. These series are complimented with award winning documentaries that also tell the story of our area. **KTSC-TV** has a commitment to providing an opportunity for local issues to be addressed in a public forum. Discussion and examination of those topics that are important to the residents of southern and western Colorado has proven to be greatly appreciated. The selection of **KTSC-TV** as the PBS station to go to the Western Slope was decided by the County Commissioners of

Ouray, Delta and Montrose, Colorado, upon comparison of what KTSC-TV was providing in the way of a local voice for its viewers. This responsiveness to viewers was a major factor in KTSC-TV being selected over much larger KRMA-TV, Denver, in being carried on the Western Slope system. The endowment monies will also be used to expand and enhance the local programs KTSC-TV can offer regarding the smaller communities that generally do not get as much television exposure.

STATE OF
COUNTY OF PUEBLO } ss:

Subscribed and sworn to this 3rd day of September 1992.



Gregory B. Sinn

EXHIBIT 2

Engineering Statement of Cohen, Dippell & Everist, P.C.

**ENGINEERING STATEMENT
IN SUPPORT OF AMENDMENT OF 73.606
TABLE OF ASSIGNMENTS TO DESIGNATE
CHANNEL 8, PUEBLO, COLORADO
AS A COMMERCIAL CHANNEL AND
CHANNEL 5, PUEBLO, COLORADO
AS A NON-COMMERCIAL CHANNEL
SEPTEMBER 1992**

**COHEN, DIPPELL AND EVERIST, P.C.
CONSULTING ENGINEERS
RADIO AND TELEVISION
WASHINGTON, D.C.**

COHEN, DIPPELL AND EVERIST, P. C.

City of Washington)
) ss
District of Columbia)

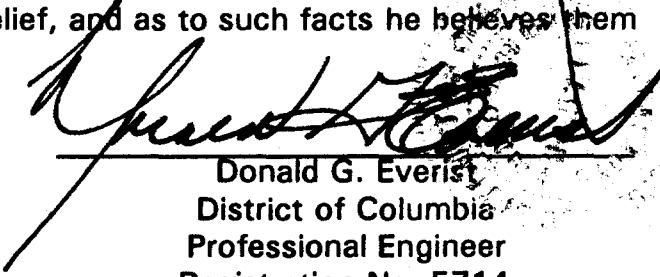
Donald G. Everist, being duly sworn upon his oath, deposes and states that:

He is a graduate electrical engineer, a Registered Professional Engineer in the District of Columbia, and is Secretary-Treasurer of Cohen, Dippell and Everist, P.C., Consulting Engineers, Radio - Television, with offices at 1300 L Street, N.W., Suite 1100, Washington, D.C. 20005;

That his qualifications are a matter of record in the Federal Communications Commission;

That the attached engineering report was prepared by him or under his supervision and direction and

That the facts stated herein are true of his own knowledge, except such facts as are stated to be on information and belief, and as to such facts he believes them to be true.


Donald G. Everist
District of Columbia
Professional Engineer
Registration No. 5714

Subscribed and sworn to before me this 4th day of September, 1992.


Notary Public

My Commission Expires: 2/28/93

This engineering statement is prepared on behalf of The University of Southern Colorado, permittee of non-commercial television station KTSC(TV), Channel 8, Pueblo, Colorado (hereafter "University") and Sangre de Cristo Communications, Inc., licensee of television station KOAA-TV, Channel 5, Pueblo, Colorado (hereafter "SCC") in support of a petition to: (1) designate Channel 8, Pueblo, Colorado, as a commercial channel and designate Channel 5, Pueblo, Colorado, as a non-commercial channel and (2) modify the license of KTSC(TV) to specify operation on Channel 5*, and modify the license of KOAA-TV to specify operation on Channel 8 in accord with an existing construction permit held by University.

SCC proposes (1) to make a monetary contribution to University of \$1,000,000, (2) donate the license of K30AA Channel 30 translator at Colorado Springs, Colorado, to University, and (3) donate the existing licensed facilities of KOAA-TV to University.

University proposes to use a portion of the contribution to provide the first educational service to the western slope of Colorado which contains 10 counties and a population of 207,974. See Sinn affidavit. (With the use of two translators, University will be able to provide the first educational service to 82,871 persons. See Appendix A).

The K30AA translator serves 340,260 persons within its 74 dBu contour, a gain of 211,633 over the STA operation of the K15BX translator by University. In addition, the K30AA transmitter and antenna operates with state-of-the-art equipment

and provide both horizontally and vertically polarized service to the Colorado Springs area.

The KOAA-TV transmitter and antenna will permit University to make a significant improvement of quality signal within its service area as the licensed operation of KOAA-TV is for an omni-directional circularly polarized (Harris CPV) antenna with 100 kW ERP in each polarization.

Attached hereto are separate coverage maps for:

- 1) The licensed operation of KOAA-TV, Channel 5, 100 kW, 396 meters circularly polarized.
- 2) The licensed operation of KTSC(TV), Channel 8, 316 kW, 372 meters.
- 3) The construction permit of KTSC(TV), Channel 8, 234 kW (max DA) 727 meters.

The proposed (C.P.) operation KTSC(TV) would provide Grade B service to 1,748,151 people, a theoretical gain of 1,149,537, mainly in the Denver, Colorado, which presently receive non-commercial service from three other non-commercial stations (KRMA-TV, Channel 6, Denver; KBDI-TV, Channel 12, Broomfield; and KWBI-TV, Channel 41, Denver). This gain of service in the Denver area does not occur. There is intervening mountainous terrain between the proposed KTSC(TV) site and Denver. The proposed move would result in a loss of service to 19,597 persons. This loss of non-commercial service was briefly referred to in the Commission's letter of February 28, 1991, to University as being largely unpopulated when it stated, "We

further note that while there would be some loss areas to the south and east, these areas are largely unpopulated."

COHEN, DIPPELL AND EVERIST, P. C.

POPULATION SUMMARY
KOAA-TV CHANNEL 5
KTSC(TV) CHANNEL 8
AUGUST 1992

| <u>Station</u> | <u>Contour</u> | <u>Population</u> |
|-----------------------------|----------------------------------|-------------------------|
| KOAA-TV | Grade B | 604,012 ^{1/} |
| KTSC(TV) Lic. | Grade B | 598,614 ^{2/} |
| KTSC(TV) C.P. | Grade B | 1,748,151 ^{3/} |
| K30AA ^{4/} | 74 dBu contour | 340,260 |
| KOAA-TV-KTSC(TV) Lic. | Grade B Overlap | 598,614 |
| KOAA-TV-KTSC(TV) C.P. | Grade B Overlap | 582,140 |
| KTSC(TV) Lic.-KTSC(TV) C.P. | Grade B Overlap | 597,037 |
| KTSC(TV) | Loss with implementation of C.P. | 19,599 ^{5/} |
| KTSC(TV) | Gain moving to Channel 5 | 5,393 |
| | K30AA Translator Gain | 211,633 |
| | Total Gain | 217,026 |
| KOAA-TV | Loss moving to KTSC(TV) C.P. | 21,872 |

^{1/}There is shadowing in Colorado Springs from the KOAA-TV/KTSC(TV) licensed site and thus a portion of this area needs to be served by a translator.

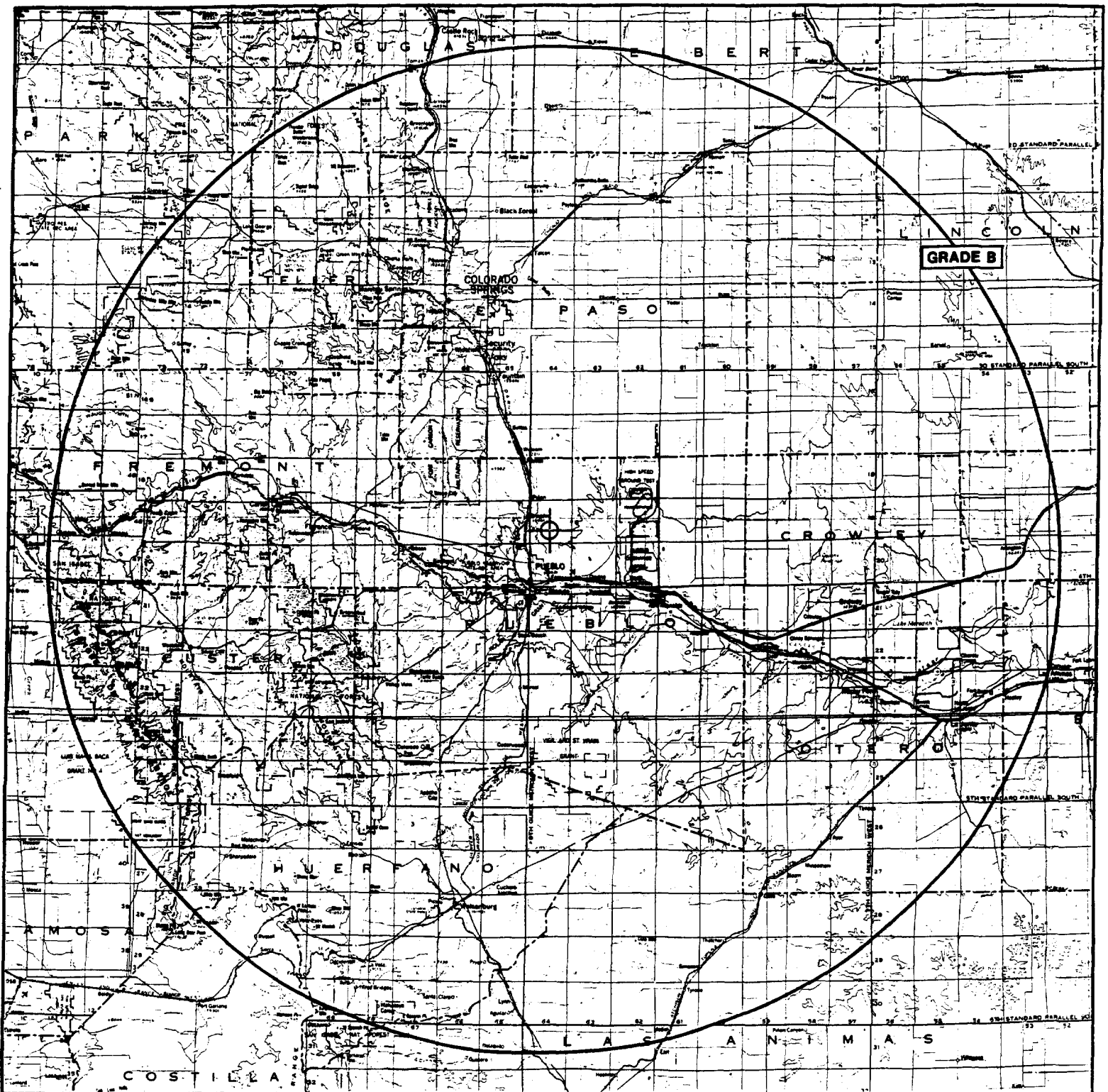
^{2/}ibid.

^{3/}There is shadowing in Denver from the KTSC(TV) CP on Cheyenne Mountain and thus the actual populations within this contour are inflated and were not intended to be served.

^{4/}Serves Colorado Springs from Cheyenne Mountain and is within the computed Grade B contours of the present and proposed operation of KOAA-TV and KTSC(TV).

^{5/}Considered insignificant by FCC in granting the KSTV(TV) construction permit.

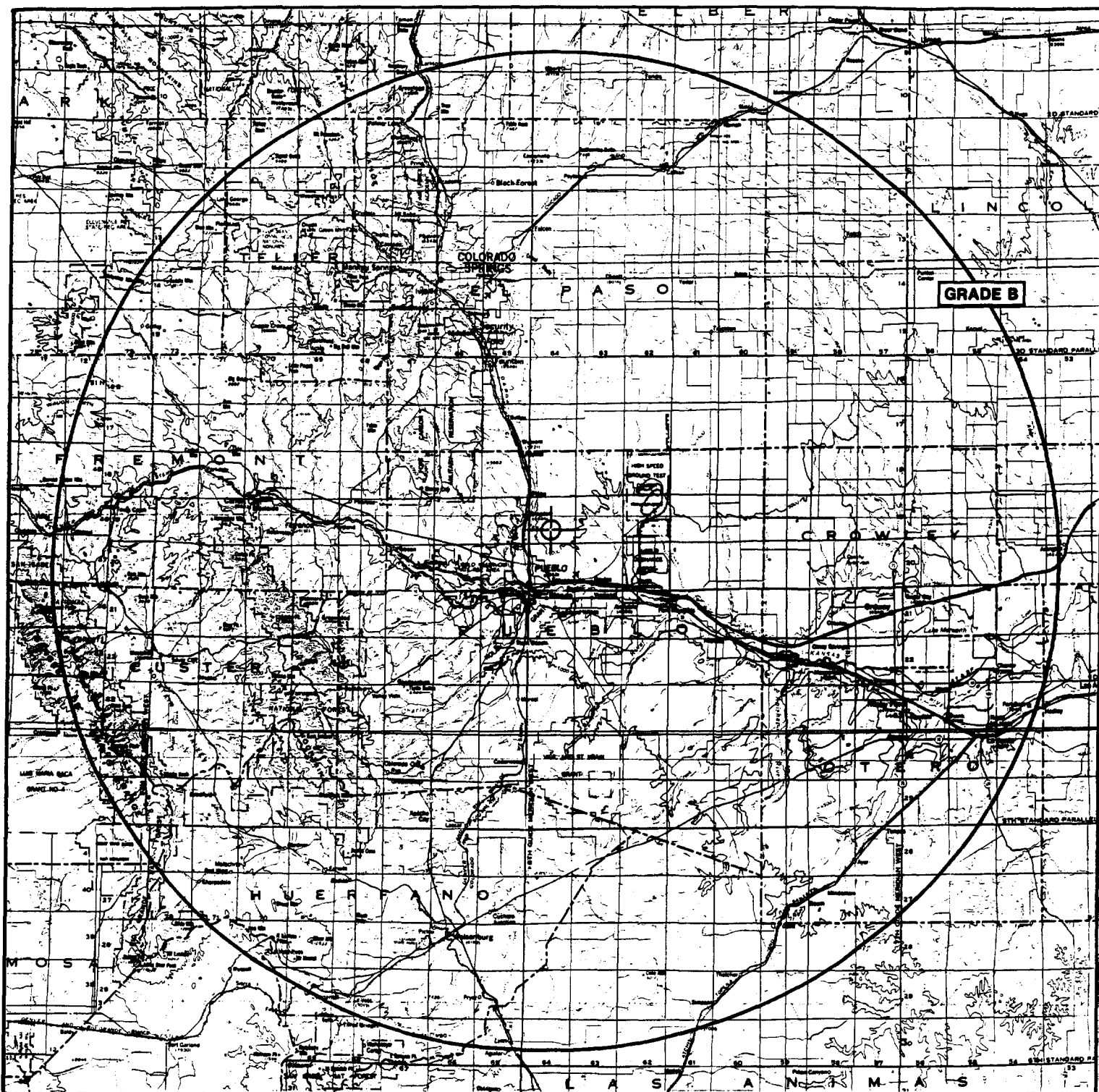
| | | | |
|-------|-----|----------------|---------|
| K15BX | STA | 74 dBu contour | 128,627 |
|-------|-----|----------------|---------|



COMPUTED COVERAGE CONTOUR
KOAA-TV, PUEBLO, COLORADO
CHANNEL 5 100 KW 396 METERS
AUGUST 1992

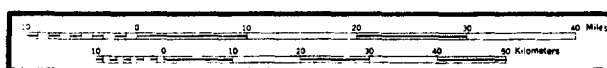
COHEN, DIPPELL and EVERIST, P.C. Consulting Engineers Washington, D.C.

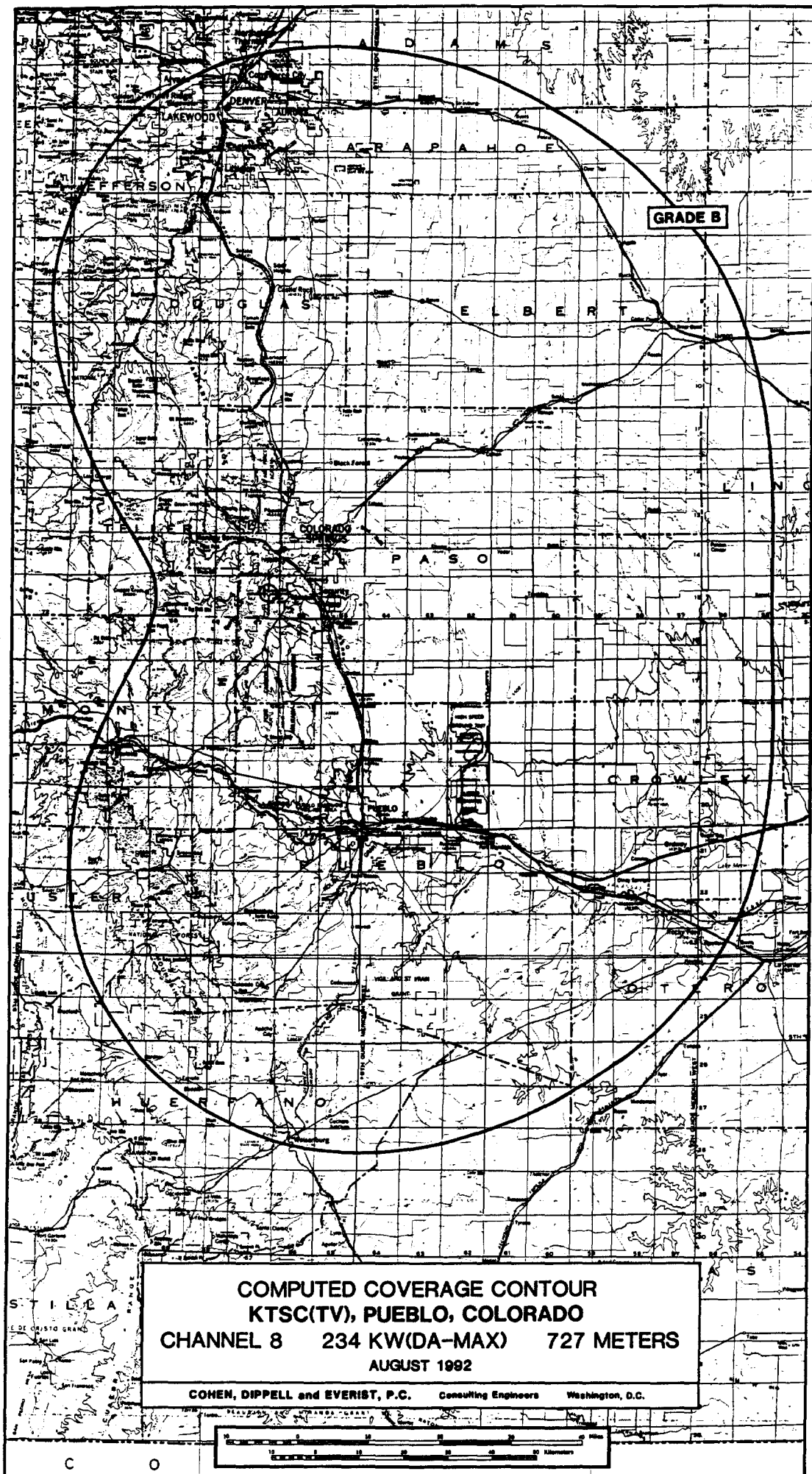




COMPUTED COVERAGE CONTOUR
KTSC(TV), PUEBLO, COLORADO
CHANNEL 8 316 KW 372 METERS
AUGUST 1992

COHEN, DIPPELL and EVERIST, P.C. Consulting Engineers Washington, D.C.





COHEN, DIPPELL AND EVERIST, P. C.

APPENDIX A